

FILLING VACANCIES

A vacancy on the Board of Trustees may occur for any of the events specified in Government Code 1770. Removal by conviction of a grand jury or recall election shall also create a vacancy on the Board. (Government Code 3072, Elections Code 27344) Federal military deployment exceeding six months as a member of the armed services of the United States or the California National Guard shall also create a vacancy on the Board. If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve in his/her absence. (Government Code 1064)

Within 60 days of the date of the vacancy or the filing of the Board member's deferred resignation, the Board shall either order an election for the next regular election date or make a provisional appointment. (Education Code 5091)

If the vacancy occurs within four months of the end of the Board member's term, the Board shall not fill the vacancy. (Education Code 5093)

Provisional Appointment

When making a provisional appointment, the Board desires to draw from the widest possible number of candidates. The Board shall:

1. Solicit applications or nominations of any legally qualified citizen interested in serving on the Board.
2. Provide candidates with appropriate information regarding Board member responsibilities.
3. Interview the candidates at a public meeting.
4. Select the provisional appointee by majority vote at a public meeting.

Within 10 days after the appointment is made, the Board shall post notices of the vacancy or dated resignation and the provisional appointment. The notice shall be published in the local newspaper and posted in at least three public places. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The full name of the appointee.
2. The date of appointment.

FILLING VACANCIES (continued)

3. A statement notifying the voters that the provisional appointment shall become effective immediately and shall continue unless a petition calling for an election is filed in the office of the County Superintendent of Schools.

The person appointed shall hold office until the next regularly scheduled election for District Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

Legal Reference:

EDUCATION CODE

5012 Declaration candidacy or nomination; withdrawal

5090 Definition (vacancy)

5091 Special election or provisional appointment

5092 Public notice of vacancy and provisional appointment

5093 Re vacancies occurring near end of term and incumbent not reelected

5094 Power of president of county board of education when majority of offices vacant

5095 Powers of remaining board members and new electees or appointees

5200 Districts governed by boards of education

5304 Duties of the governing board (re school district elections)

5325 Publication of information regarding district elections

5424 Expenses of conducting legal recall election

35107 Eligibility

ELECTIONS CODE

27344 Vacancy in office if majority vote for recall

GOVERNMENT CODE

1770 Vacancies: definition

3060-3074 Removal other than by impeachment

1064 Absence from State

Bylaw
adopted: February 27, 1995
revised: August 11, 2008

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California